

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

**DECLARATION OF DAVID J. SHEEHAN IN SUPPORT OF THE TRUSTEE'S  
MOTION TO AFFIRM TRUSTEE'S DETERMINATIONS DENYING CLAIMS OF  
CLAIMANTS WITHOUT BLMIS ACCOUNTS IN THEIR NAMES, NAMELY,  
INVESTORS IN FEEDER FUNDS**

I, David J. Sheehan, Esq., of full age, hereby declare as follows:

1. I am a partner at the law firm of Baker & Hostetler LLP, counsel to Irving H. Picard, Esq., trustee ("Trustee") for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* ("SIPA"),<sup>1</sup> and for Bernard L. Madoff ("Madoff") (collectively, "Debtor").

2. As an attorney of record, I am fully familiar with this case and the facts set forth herein.

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<sup>1</sup>The Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* For convenience, subsequent references to sections of the act shall be denoted simply as "SIPA, § \_\_\_\_."

3. For purposes of this Motion, the Trustee has selected nineteen BLMIS accounts held by Feeder Funds.<sup>2</sup> There are sixteen Feeder Funds associated with the nineteen BLMIS accounts, which are listed on Exhibit 1.

4. A list of Objecting Claimants is annexed hereto as Exhibits 2 and 3, listing their claim number and the docket number of their objections.

5. At my direction, the Trustee's consultants, AlixPartners, engaged in a review of the claims and other information provided by the Objecting Claimants in an effort to determine in which of the Feeder Funds the Objecting Claimants invested.

6. If an Objecting Claimant failed to provide a BLMIS account number of the Feeder Fund in which they invested, AlixPartners reviewed the claim image and any supplemental information attached to the claim form. The supplemental information may have included account statements, Feeder Fund prospectuses, letters from the Feeder Fund explaining the funds exposure to BLMIS, and Objecting Claimants' handwritten letters to the Trustee explaining their exposure to BLMIS.

7. After the claims and supplemental information was reviewed, Baker Hostetler attorneys and AlixPartners engaged in a detailed mapping exercise to determine the Feeder Funds, including any sub-feeder funds that did not directly invest with BLMIS, in which the Objecting Claimant may have invested.

8. On the attached Exhibit 1, the last column displays the number of objections by Objecting Claimants that Baker Hostetler and AlixPartners were able to correlate to the Feeder Fund accounts.

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<sup>2</sup> Some Objecting Claimants may have held accounts in their own names, in addition to investing in a Feeder Fund that in turn, invested with BLMIS. The Trustee's Motion only deals with the Objecting Claimants insofar as they invested in a Feeder Fund.

**9.** On the attached Exhibits 2 and 3, there is detailed information regarding the Objecting Claimants, their claims, objections and the Feeder Funds in which they may have invested. Through the mapping process described above, the Trustee was able to correlate the Objecting Claimants to the Feeder Funds listed therein.

**10.** Exhibit 2 provides a list of the 1,771 Objecting Claimants (or Claimants Without An Account) that invested in the Feeder Funds identified in Exhibit 1 and that objected to the Trustee's determination of their claims. Exhibit 2 also identifies the Objecting Claimants' claim numbers where available, the docket numbers of the objections as filed with the Court, the lawyers representing the Objecting Claimants, the Feeder Funds in which the Objecting Claimants invested, and the Feeder Fund account numbers. Exhibit 3 provides additional information, identifying the date and result of the Trustee's claim determinations, as well as the dates that the objections were filed with the Court.

**11.** Based on a review of filings, approximately 2,330 objections have been filed to date by claimants without accounts who invested through feeder funds, including the Feeder Funds herein. This Motion addresses 1,771 of those objections, which is more than 75%.

**12.** Some Objecting Claimants alleged a direct financial relationship with BLMIS. A review conducted by Baker Hostetler of the available books and records of BLMIS did not reveal evidence of any payments by the Objecting Claimants directly to or from the Feeder Funds accounts at BLMIS, nor any other indicia of a direct financial relationship between BLMIS and the Objecting Claimants.

**13.** Based upon investments in Kingate Global Fund, Ltd., approximately 330 investors filed customer claims with the Trustee. Each of those claims was denied by the Trustee.

**14.** Attached hereto as Exhibit 4 is a true and correct copy of the customer claim filed with the Trustee by Andover Associates LP, with all but selected exhibits omitted.

**15.** Attached hereto as Exhibit 5 is a true and correct copy of the November 30, 2008 BLMIS account statement for Andover Associates LP, BLMIS Account Number 1A0061.

**16.** Attached hereto as Exhibit 6 is a true and correct copy of the account maintenance file for Andover Associates LP from the available books and records of BLMIS.

**17.** Attached hereto as Exhibit 7 is a true and correct copy of the customer claim filed with the Trustee by Ariel Fund LTD, with exhibits omitted.

**18.** Attached hereto as Exhibit 8 is a true and correct copy of the November 30, 2008 BLMIS account statement for Ariel Fund LTD, BLMIS Account Number 1FR070.

**19.** Attached hereto as Exhibit 9 is a true and correct copy of the account maintenance file for Ariel Fund LTD from the available books and records of BLMIS.

**20.** Attached hereto as Exhibit 10 is a true and correct copy of the customer claim filed with the Trustee by Ascot Partners, LP, with exhibits omitted.

**21.** Attached hereto as Exhibit 11 is a true and correct copy of the November 30, 2008 BLMIS account statement for Ascot Partners, LP BLMIS Account Number 1A0058.

**22.** Attached hereto as Exhibit 12 is a true and correct copy of the customer claim filed with the Trustee by Beacon Associates LLC, with all but selected exhibits omitted.

**23.** Attached hereto as Exhibit 13 is a true and correct copy of the November 30, 2008 BLMIS account statement for Beacon Associates LLC, BLMIS Account Number 1B0018.

**24.** Attached hereto as Exhibit 14 is a true and correct copy of the account maintenance file for Beacon Associates LLC from the available books and records of BLMIS.

**25.** Attached hereto as Exhibit 15 are true and correct copies of the customer claims filed with the Trustee by Fairfield Sentry Limited with regard to BLMIS Account Number 1FN012, with all but selected exhibits omitted.

**26.** Attached hereto as Exhibit 16 is a true and correct copy of the November 30, 2008 BLMIS account statement for Fairfield Sentry Limited, BLMIS Account Number 1FN012.

**27.** Attached hereto as Exhibit 17 are true and correct copies of the customer claims filed with the Trustee by Fairfield Sentry Limited with regard to BLMIS Account Number 1FN045, with all but selected exhibits omitted.

**28.** Attached hereto as Exhibit 18 is a true and correct copy of the November 30, 2008 BLMIS account statement for Fairfield Sentry Limited, BLMIS Account Number 1FN045.

**29.** Attached hereto as Exhibit 19 is a true and correct copy of the customer claim filed with the Trustee by Fairfield Sentry Limited with regard to BLMIS Account Number 1FN069, with all but selected exhibits omitted.

**30.** Attached hereto as Exhibit 20 is a true and correct copy of the November 30, 2008 BLMIS account statement for Fairfield Sentry Limited, BLMIS Account Number 1FN069.

**31.** Attached hereto as Exhibit 21 is a true and correct copy of the account maintenance file for Fairfield Sentry Limited, BLMIS Account Number 1FN069, from the available books and records of BLMIS.

**32.** Attached hereto as Exhibit 22 is a true and correct copy of the customer claim filed with the Trustee by Fairfield Sentry Limited with regard to BLMIS Account Number 1FN070, with all but selected exhibits omitted.

**33.** Attached hereto as Exhibit 23 is a true and correct copy of the November 30, 2008 BLMIS account statement for Fairfield Sentry Limited, BLMIS Account Number 1FN070.

**34.** Attached hereto as Exhibit 24 is a true and correct copy of the account maintenance file for Fairfield Sentry Limited, BLMIS Account Number 1FN070, from the available books and records of BLMIS.

**35.** Attached hereto as Exhibit 25 is a true and correct copy of the customer claim filed with the Trustee by Gabriel Capital, L.P., with exhibits omitted.

**36.** Attached hereto as Exhibit 26 is a true and correct copy of the November 30, 2008 BLMIS account statement for Gabriel Capital, L.P, BLMIS Account Number 1G0321.

**37.** Attached hereto as Exhibit 27 is a true and correct copy of the customer claim filed with the Trustee by Greenwich Sentry LP, with exhibits omitted.

**38.** Attached hereto as Exhibit 28 is a true and correct copy of the November 30, 2008 BLMIS account statement for Greenwich Sentry LP, BLMIS Account Number 1G0092.

**39.** Attached hereto as Exhibit 29 is a true and correct copy of the customer claim filed with the Trustee by Greenwich Sentry Partners, L.P., with exhibits omitted .

**40.** Attached hereto as Exhibit 30 is a true and correct copy of the November 30, 2008 BLMIS account statement for Greenwich Sentry Partners, L.P., BLMIS Account Number 1G0371.

**41.** Attached hereto as Exhibit 31 is a true and correct copy of the customer claim filed with the Trustee by Herald Fund SPC – Herald USA, with exhibits omitted.

**42.** Attached hereto as Exhibit 32 is a true and correct copy of the November 30, 2008 BLMIS account statement for Herald Fund SPC – Herald USA, BLMIS Account Number 1FR109.

**43.** Attached hereto as Exhibit 33 is a true and correct copy of the customer claim filed with the Trustee by Kingate Euro Fund Ltd. – In Liquidation, with exhibits omitted .

**44.** Attached hereto as Exhibit 34 is a true and correct copy of the November 30, 2008 BLMIS account statement for Kingate Euro Fund Ltd., BLMIS Account Number 1FN086.

**45.** Attached hereto as Exhibit 35 is a true and correct copy of the customer claim filed with the Trustee by Kingate Global Fund Ltd. – In Liquidation, with exhibits omitted.

**46.** Attached hereto as Exhibit 36 is a true and correct copy of the November 30, 2008 BLMIS account statement for Kingate Global Fund Ltd., BLMIS Account Number 1FN061.

**47.** Attached hereto as Exhibit 37 is a true and correct copy of the customer claim filed with the Trustee by Maxam Absolute Return Fund LP, with exhibits omitted.

**48.** Attached hereto as Exhibit 38 is a true and correct copy of the November 30, 2008 BLMIS account statement for Maxam Absolute Return Fund LP, BLMIS Account Number 1M0232.

**49.** Attached hereto as Exhibit 39 is a true and correct copy of the customer claim filed with the Trustee by Rye Select Broad Market Fund, L.P., with exhibits omitted .

**50.** Attached hereto as Exhibit 40 is a true and correct copy of the November 30, 2008 BLMIS account statement for Rye Select Broad Market Fund, L.P., BLMIS Account Number 1T0027.

**51.** Attached hereto as Exhibit 41 is a true and correct copy of the customer claim filed with the Trustee by Rye Select Broad Market Insurance Portfolio, LDC, with all but selected exhibits omitted.

**52.** Attached hereto as Exhibit 42 is a true and correct copy of the November 30, 2008 BLMIS account statement for Rye Select Broad Market Insurance Portfolio, LDC, BLMIS Account Number 1FR010.

**53.** Attached hereto as Exhibit 43 is a true and correct copy of the account maintenance file for Rye Select Broad Market Insurance Portfolio, LDC from the available books and records of BLMIS.

**54.** Attached hereto as Exhibit 44 is a true and correct copy of the customer claim filed with the Trustee by Rye Select Broad Market Portfolio Limited, with exhibits omitted.

**55.** Attached hereto as Exhibit 45 is a true and correct copy of the November 30, 2008 BLMIS account statement for Rye Select Broad Market Portfolio Limited, BLMIS Account Number 1FR080.

**56.** Attached hereto as Exhibit 46 is a true and correct copy of the account maintenance file for Rye Select Broad Market Portfolio Limited from the available books and records of BLMIS.

**57.** Attached hereto as Exhibit 47 are true and correct copies of the customer claims filed with the Trustee by Rye Select Broad Market Prime Fund, LP, with all but selected exhibits omitted.

**58.** Attached hereto as Exhibit 48 is a true and correct copy of the November 30, 2008 BLMIS account statement for Rye Select Broad Market Prime Fund, LP, BLMIS Account Number 1C1260.

**59.** Attached hereto as Exhibit 49 is a true and correct copy of the account maintenance file for Rye Select Broad Market Prime Fund, LP from the available books and records of BLMIS.

**60.** Attached hereto as Exhibit 50 is the Amended and Restated Partnership Agreement for Greenwich Sentry, L.P., dated April 30, 2006.



**61.** Attached hereto as Exhibit 51 is the Greenwich Sentry, L.P. Subscription Agreement and related documents.

**62.** Attached hereto as Exhibit 52 is the Greenwich Sentry Partners, L.P. Limited Partnership Agreement, dated April 30, 2006.

**63.** Attached hereto as Exhibit 53 is the Greenwich Sentry Partners, L.P. Confidential Offering Memorandum, dated August 2006.

**64.** Attached hereto as Exhibit 54 is the Greenwich Sentry Partners, L.P. Subscription Agreement.

**65.** Attached hereto as Exhibit 55 is the Greenwich Sentry Partners, L.P. Letter to Limited Partners, dated February 12, 2009.

**66.** Attached hereto as Exhibit 56 is the Articles of Association of Herald Fund SPC, dated March 24, 2004.

**67.** Attached hereto as Exhibit 57 is the Memorandum of Association of Herald Fund SPC, dated March 24, 2004.

**68.** Attached hereto as Exhibit 58 is the Annual Report and Audited Financial Statements Year Ended December 31, 2007 of Herald Fund SPC.

**69.** Attached hereto as Exhibit 59 is the Herald Fund USA (USD Class) Information Sheet.

**70.** Attached hereto as Exhibit 60 is a Herald USA presentation.

**71.** Attached hereto as Exhibit 61 is the Kingate Euro Fund, Ltd. Amended and Restated Information Memorandum dated October 6, 2008.

**72.** Attached hereto as Exhibit 62 is an email to investors in Kingate Euro Fund, Ltd. and Kingate Global Fund, Ltd., dated December 12, 2008.

**73.** Attached hereto as Exhibit 63 is a letter from Kingate Euro Fund, Ltd. and Kingate Global Fund, Ltd. to investors in Kingate Euro Fund, Ltd. and Kingate Global Fund, Ltd., dated December 19, 2008.

**74.** Attached hereto as Exhibit 64 is the Kingate Global Fund, Ltd. Amended and Restated Information Memorandum dated October 6, 2008.

**75.** Attached hereto as Exhibit 65 is the Amended and Restated Confidential Private Placement Memorandum of Maxam Absolute Return Fund, L.P., dated March 21, 2008.

**76.** Attached hereto as Exhibit 66 are the Subscription Agreements for Maxam Absolute Return Fund, L.P.

**77.** Attached hereto as Exhibit 67 are Investor Statements of Maxam Absolute Return Fund, L.P.

**78.** Attached hereto as Exhibit 68 is the Amended and Restated Limited Partnership Agreement of Maxam Absolute Return Fund, L.P., dated March 21, 2008.

**79.** Attached hereto as Exhibit 69 is the American Masters Broad Market Fund, L.P. Amended Limited Partnership Agreement, dated May 31, 1994.

**80.** Attached hereto as Exhibit 70 is the Second Amended and Restated American Masters Broad Market Fund, L.P. Limited Partnership Agreement, dated January 1, 2005.

**81.** Attached hereto as Exhibit 71 is the Rye Select Broad Market Fund, L.P. Amended and Restated Confidential Private Placement Memorandum, dated February 1, 2007.

**82.** Attached hereto as Exhibit 72 are subscription documents for Rye Select Broad Market Fund, L.P.

**83.** Attached hereto as Exhibit 73 is the Second Amended and Restated Memorandum of Association of Rye Select Broad Market Portfolio Limited, dated July 2006.

**84.** Attached hereto as Exhibit 74 is the Rye Select Broad Market Portfolio Limited Amended and Restated Prospectus, dated July 1, 2007.

**85.** Attached hereto as Exhibit 75 is the Rye Select Broad Market Portfolio Limited Supplemental Disclosure Statement to the Amended and Restated Prospectus And Subscription Materials For U.S. Investors, dated July 1, 2007.

**86.** Attached hereto as Exhibit 76 is the Rye Select Broad Market Prime Fund L.P. Amended and Restated Confidential Private Placement Memorandum, dated March 1, 2008.

**87.** Attached hereto as Exhibit 77 is an executed subscription agreement for Rye Select Broad Market Prime Fund, L.P.

**88.** Attached hereto as Exhibit 78 is the customer claim filed with the Trustee by Remy Investment Corporation.

**89.** Attached hereto as Exhibit 79 is the customer claim filed with the Trustee by Peter J. Leveton.

**90.** Attached hereto as Exhibit 80 is a true and correct copy of the Prospectus dated February 1996 of Ariel Fund Limited as attached to customer claim number 6108 filed with the Trustee by the Saval Charitable Trust.

**91.** Attached hereto as Exhibit 81 is a true and correct copy of the Amended and Restated Limited Partnership Agreement of Ascot Partners, L.P. as attached to customer claim number 5539 filed with the Trustee by the Richard Born Trust.

**92.** Attached hereto as Exhibit 82 is a true and correct copy of the Amended and Restated Limited Partnership Agreement of Gabriel Capital, L.P. as attached to customer claim number 2868 filed with the Trustee by Steven Horowitz.

**93.** There are additional documents relating to the Feeder Funds that the Trustee has not yet received consent to use in accordance with the Protective Order governing this matter, entered on February 16, 2010 (Dkt. No. 1951). The Trustee may file supplemental exhibits upon receiving consent or upon entry of an order granting permission to file such documents under seal.

Pursuant to 28 U.S.C. § 1746, I hereby declare that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: New York, New York  
June 11, 2009

/s/ David J. Sheehan  
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Investment Securities LLC and Bernard L.  
Madoff*